



**Statement
Of the
AMERICAN PUBLIC POWER ASSOCIATION,
LARGE PUBLIC POWER COUNCIL, and
TRANSMISSION ACCESS POLICY STUDY GROUP
Submitted to the
HOUSE WAYS AND MEANS COMMITTEE
For the March 19, 2013, hearing on
“Tax Reform and Tax Provisions Affecting State and Local Governments”**

(Submitted April 2, 2013)

The American Public Power Association (APPA)¹, Large Public Power Council (LPPC)², and Transmission Access Policy Study Group (TAPS)³ appreciate the opportunity to submit this statement in relation to the House Ways and Means Committee’s March 19, 2013, hearing on “Tax Reform and Tax Provisions Affecting State and Local Governments.” Collectively, public power utilities deliver electricity to one of every seven U.S. electricity consumers (approximately 47 million people). Our members serve some of the nation’s smallest towns—roughly four out of five public power utilities serve 10,000 or fewer customers—and largest cities, including Los Angeles and Orlando.

Fundamental income tax reform could have a direct effect on a number of issues of concern to our members, including the treatment of health care expenses and of pension and retirement contributions and accruals. However, given the potential damage that could be done to our members’ ability to continue their mission—to provide affordable and reliable electricity to their customers—this statement will focus primarily on the effect of tax reform on financing of capital expenditures.

As Congress debates tax reform, it should consider carefully the effect on state and local governmental entities’, including public power utilities’, ability to finance the critical infrastructure investments needed to provide for economic growth and our citizens’ well-being. Changes to the current law treatment of tax-exempt bonds will increase the price that public power customers pay for electricity, especially affecting small businesses and low- and fixed-income households, and reduce the ability to fund necessary public power infrastructure improvements.

¹ APPA is the national service organization representing the interests of over 2,000 municipal and other state- and locally-owned, not-for-profit electric utilities (“public power utilities”) throughout the United States (all but Hawaii). LPPC and TAPS members are all members of APPA.

² LPPC is the national service organization comprised of 26 of the nation’s largest public power utilities. LPPC member utilities own and operate more than 86,000 megawatts of generation capacity and over 35,000 circuit miles of high voltage transmission lines. Together, LPPC members control 90% of the public-agency-owned, but non-federal, transmission investment in the nation.

³ TAPS is an association of 45 transmission-dependent public power utilities located in more than 35 states advocating for a robust transmission grid and competitive wholesale electric markets.

Municipal Bonds

Municipal bonds have been used for centuries by state and local governments to finance a wide range of public infrastructure. They allow issuers to build projects with capital provided upfront by bond investors, repaid over the projects' useful life by the citizens and customers benefitting from the project.

Municipal bonds are the largest source of financing for core infrastructure in the U.S.,⁴ and are the single most important financing tool for public power, given the capital-intensive and long-lived nature of assets needed by the electric industry. Each year, on average, public power utilities make \$15 billion in new investments financed with municipal bonds. Over the last 10 years, power-related projects have totaled \$147 billion, roughly 9% of all municipal issuances.⁵

Public power utilities use municipal bonds to finance investments in power generation (including through renewable and alternative fuels), transmission, distribution, reliability, demand control, efficiency, and emissions controls. While the typical power-related bond issue is relatively small, electric generation or transmission projects often cost hundreds of millions or even billions of dollars and can have as long as a 50-year operational life.

Because interest on municipal bonds is exempt from federal income tax, investors generally accept a lower rate of return than they would otherwise demand from issuers of taxable debt. Investors are also attracted to municipal bonds because of the stability of the municipal bond market and the extremely low rate of default for municipal bonds. Historically, interest rates demanded by investors for tax-exempt municipal bonds have been an estimated average 200 basis points lower than comparable taxable corporate bonds. Savings to the issuer from this reduced cost in borrowing allow further investments or are passed through to taxpayers in the form of lower taxes or, in the case of public power customers, reduced utility rates.⁶

An added advantage of municipal bonds as a source of state and local financing is that the need for, and terms of, financing are determined by state and local citizens, either directly or through their representatives. Additionally, significant flexibility is afforded to state and local government issuers compared to issuers of taxable debt, including the term of the issue, the debt structure, and the ability to optionally call fixed rate debt after 10 years.

Current Financing Alternatives

Several alternative debt instruments exist that supplement municipal bonds as a means of financing state and local infrastructure investments. However, as explained below, each has its own inefficiencies and none, alone, would be a viable replacement for municipal bonds.

Taxable Bonds

On occasion, state and local governments issue taxable debt to finance infrastructure investments, generally as a supplement to financing provided by tax-exempt debt. Taxable bonds appeal to a different type of investor, typically those less concerned with tax considerations (such as pension funds and foreign

⁴ Cong. Budget Office, J. Comm. on Taxation "Subsidizing Infrastructure Investment with Tax-Preferred Bonds" (Oct. 2009)(showing that for education, water, and sewer, nearly all capital investments are made by state and local governments and that for transportation most investments are made by state and local governments).

⁵ The Bond Buyer & Thomson Reuters "2012 Yearbook" (2012); The Bond Buyer & Thomson Reuters "2006 Yearbook" (2006).

⁶ American Public Power Association "2012-2013 Public Power Annual Directory and Statistical Report" 51 (2012).

investors) and so can expand the potential pool of investors for a larger project. Because investors generally demand a higher rate of return on taxable bonds than on tax-exempt municipal bonds, their use is limited and could not replace tax-exempt municipal bonds as a means of financing.

Other considerations also limit the use of taxable bonds by municipal issuers. Issuers are subject to more restrictions on the terms of debt issued in the taxable market. For example, while the right to optionally call a bond early at par is included in most municipal bonds, such provisions are rare in taxable bonds. As a result, state and local government issuers are generally effectively precluded from refinancing taxable debt to take advantage of an interest rate decrease.

Direct Payment Bonds

Direct payment bonds are government purpose bonds the interest on which is taxable to the bond holder, but for which state and local government issuers receive a direct federal payment generally set at a percentage of the interest rate paid to bond holders. Build America Bonds (BABs) were able to be issued as direct payment bonds from February 17, 2009, through December 31, 2010. The reimbursement rate for these bonds was set at 35 percent. Of the \$843 billion in municipal bonds issued in 2009 and 2010, roughly \$181 billion were direct payments BABs. This unprecedented willingness of municipal issuers to issue taxable debt stemmed in large part because of the reimbursement rate though also in part because of the unusual difficulties being experienced in the municipal market which the expanded pool of investors provided by issuing taxable debt helped overcome.

The Clean Renewable Energy Bond (CREB) program was intended to provide for not-for-profit issuers the same incentives to invest in renewable projects as was provided by the production tax credit. The original program was a tax credit bond program, but after very limited success, in a new version of the CREB program, New CREBs, was created in 2008 and modified in 2010 to allow issuers the option of receiving a direct payment from Treasury in lieu of providing bond holders a tax credit.

Although direct pay bonds appear to be an efficient means of providing a federal subsidy to issuers of state and local bonds, these bonds have their own inefficiencies. First, concerns about offsetting payments by amounts potentially owed to the federal government under other programs have concerned many issuers. Second, sequestration of direct payment bond payments⁷ has confirmed concerns that the federal government could change the amount of the subsidy after issuers borrowed in reliance on the expectation of direct subsidy payments.

Tax Credit Bonds

Tax credit bonds are taxable obligations in which the investor receives a tax credit in lieu of tax-exempt interest. BABs, Clean Renewable Energy Bonds (CREBs), and Qualified Energy Conservation Bonds can be issued as tax credit bonds. They are sophisticated debt instruments that have traditionally been purchased by investment banks for their own account.

The tax credit rate is set daily by the Treasury Department based on the average “AA” corporate rated debt. This “one-size-fits-all” coupon approach has led to either discounting of the bond upon issuance or a requirement that issuers pay a “supplemental coupon” to increase the yield on the bonds in order to attract investors.

⁷ Office of Mgmt. & Budget, Exec. Office of the President, OMB Report to the Congress on the Joint Committee Sequestration for Fiscal Year 2013 48 (Mar. 1, 2013).

In 2008, tax credit bonds were modified to allow investors to separate (or “strip”) the tax credits from the bond and sell them separately. However, because the logistics of stripping is complex, investors discount the value of both the credits and the remaining bond. Investors further discount the value of tax credit bonds to reflect additional costs and risks, including the risk that the investor may not have a federal tax liability in later years against which to use the credits.

Because of these difficulties, the demand for tax credit bonds has been limited and issuers have been reluctant to rely on them.⁸

Private Activity Bonds

Private activity bonds issued by state and local governments for certain permitted facilities are exempt from regular federal income tax, but subject to the alternative minimum tax. Such facilities include airports, docks and wharfs, multi-family housing and solid waste disposal facilities, and facilities for the furnishing of local power.

Unlike governmental bonds, these qualified private activity bonds are subject to a wide range of restrictions and limitations including limits on the amount of bond proceeds which may be applied to finance costs of issuance, limits on state bond volume, rules regarding public notice of the bond issue and the purpose to be financed, and limits on the maturity of the bonds.

Additional restrictions mean private activity bonds are seldom issued by government-owned utilities to finance energy infrastructure improvements such as generation, transmission and distribution assets. Options to remove or alleviate these restrictions to make private activity bonds a better tool for financing power-related infrastructure are discussed below.

Municipal Bond Market

While the use of municipal bonds in America predates the birth of our nation, the first recorded general obligation municipal bond was not issued until 1812. Since then, the municipal bond market has been a steady source of financing for state and local governments. Today, there are nearly \$3.7 trillion municipal bonds outstanding, with approximately \$400 billion in issuances every year.

The policy of “reciprocal immunity”—that the federal government does not tax interest on state and local borrowing and state and local governments do not tax federal borrowing—and the longevity of this exemption have given municipal bond investors and issuers great confidence in its permanency and allowed the market to function efficiently.⁹ While subsequent changes to the tax code have placed additional requirements and restrictions on the issuance of municipal bonds, interest on government-purpose bonds has always been exempt from federal tax.

This stability has allowed the market to accommodate a vast number of issuers. Over 47,000 state and local governments issue debt in this market. By comparison, roughly 5,000 corporations issue debt in the taxable market. The market also accommodates issues that vary significantly in size and rating. From 2002 to 2011, the median municipal issuance was \$7 million.

⁸ Of 29,315 municipal bonds reported to the IRS in 2010, just 199 were tax credit bonds (http://www.irs.gov/file_source/pub/irs-soi/10bd11arra.xls) (last visited Mar. 29, 2013).

⁹ Conversely, the threat that Congress might alter this tax treatment, has caused demonstrable harm to the municipal bond market, both in terms of higher rates for new borrowings and in the loss of value of tax-exempt holdings in the secondary market (see, Janney Capital Markets, “Municipal Bond Market Note: The Threat to Tax Exemption” 3 (Oct. 19, 2012)).

Investors purchase municipal bonds in part because of tax considerations, accepting a lower rate of return because the interest is exempt from federal income tax. But municipal bonds are also valued for their stability, the low rate of risk of default, and their ability to generate a steady stream of revenue for fixed-income households. In 2010, nearly 60 percent of bond interest paid to individuals was reported on returns for households aged 65 and older.

Also, while municipal bonds are perceived by some as an investment of the rich, 52 percent of all bond interest paid to individuals went to households with income of less than \$250,000;¹⁰ roughly 75 percent went to households with income of less than \$1 million.¹¹ IRS data also show that for those who own municipal bonds, the amount of interest earned actually declines as a percentage of overall income as income increases. In other words, for households holding municipal bonds, the interest paid is more important as a source of income as household income decreases.

Market and Regulatory Safeguards

There is a longstanding and comprehensive federal legislative and regulatory system in place to regulate the tax-exempt bond market. Both the IRS and SEC have active enforcement programs for state and local bonds to help ensure that the applicable rules are satisfied. Federal tax laws significantly limit: the entities that can issue tax-exempt bonds; the purposes for which the bonds may be issued; and the investment of bond proceeds. These rules are particularly restrictive for public power utilities. For example, in the case of public power bond issuances, regardless of the size of the borrowing, no more than \$15 million (or 10% of the total, if less than \$15 million) of the proceeds can go to the benefit of private use. Furthermore, the IRS “private use rules” effectively prevent issuers from using tax-exempt bonds to build larger facilities than are required to meet the needs of their communities or to issue bonds with longer terms than needed.

The SEC and Municipal Securities Rulemaking Board regulate the manner in which state and local governments may sell their bonds and provide rules on the types of disclosure required in connection with the sale of municipal bonds, as well as ongoing annual and material event disclosure.

Significant market-based safeguards also prevent state and local issuers from irresponsibly issuing bonds or using bond financing for ill-advised projects.

Alternatives to the Current-Law Exclusion for Municipal Bond Interest

As Congress considers proposals to reform the federal income tax, it should bear in mind the unique origin of the exclusion for municipal bond interest and the substantial damage that would be done by any of the alternatives currently being advanced. Such proposals would not only affect current bondholders, but would force tax and rate increases on state and local residents to accommodate higher borrowing costs and reduce the amount spent on needed infrastructure by state and local governments.¹²

Some critics say the exclusion for municipal bond interest is inefficient. These arguments come from several sources, including the Joint Committee on Taxation (JCT). However, research over the last decade

¹⁰ Internal Revenue Service, “Statistics of Income—2010: Individual Income Tax Returns” (2012).

¹¹ *Ibid.*

¹² Testimony at this hearing indicated that there is consensus among economists that repealing the exclusion would reduce borrowing costs, but cited a single study on the effect of the exclusion for state and local sales taxes and not the exclusion for municipal bond interest (Scott Hodge, Tax Foundation “Testimony on Tax Reform and Tax Provisions Affecting State and Local Governments before the House Committee on Ways and Means” n.1 (Mar. 19, 2013)).

has called into questioned JCT's conclusions¹³ and its methodologies.¹⁴ On the whole, these analyses indicate that inefficiency and revenue lost from the exclusion is dramatically overstated. Even critics of the exclusions agree that at least 80% of the benefit of the exclusion goes to reduce state and local borrowing costs and not as a windfall to investors.¹⁵

More importantly, there is virtually no disagreement as to who will pay the price if Congress were to upend the 100-year precedent of exclusion to tax municipal bond interest with, for example, a surtax on municipal bond interest.¹⁶ It will not be borne by the investor, who will be compensated with higher rates for any taxes they pay, but rather by state and local residents forced to pay billions more every year in additional financing costs.

As noted above, throwing roughly 50,000 state and local issuers into the taxable bond market would be incredibly disruptive. Each of the proposed alternatives to tax-exempt bonds comes with its own inefficiencies from the perspective of issuers of these bonds. In contrast, the current municipal bond market provides issuers ready access to capital with maximum flexibility. This market charges a premium to issuers who have undertaken unwise projects or borrowed beyond their constituents' willingness (or ability) to repay these bonds. As a result, it should come as no surprise that municipal bonds are second only to Treasury bonds in their stability.¹⁷

Repeal

An outright repeal of the exclusion for municipal bond interest would both undermine a century of tax-policy precedent and devastate the ability of state and local governments of all sizes to seek financing in an effective, well-regulated, well-understood, and stable market.¹⁸ Estimates of the increased cost to issue taxable debt vary and generally are based on the historic spread between corporate taxable debt and municipal tax-exempt debt that, on average, has been nearly 200 basis points. Recent analysis of the cost of issuing taxable debt in the current market showed a nearly 150 basis point increase for a larger municipal issuer and a 166 basis point increase for a smaller issuer.¹⁹ At the historic spreads, if proposals to eliminate tax-exempt financing had been in place over the last 10 years, it would have cost state and local governments \$495 billion in additional interest expense.

¹³ Francis Longstaff, "Municipal Debt and Marginal Tax Rates: Is There a Premium in Asset Prices?" *NBER Working Paper 14687* 21-22 (Jan. 2009); Andrew Ang, Vineer Bhansali, & Yuhang Xing, "Taxes on Tax-Exempt Bonds" *Journal of Finance*, pp 565-601 (Nov. 11, 2008).

¹⁴ James M. Poterba & Arturo Ramirez Verdugo, "Portfolio Substitution and the Revenue Cost of Exempting State and Local Government Interest Payments from Federal Income Tax" *NBER Working Paper 14439* (Oct. 2008); George Friedlander, Citi, "The Tax Exemption of Municipal Bonds: A Much More Efficient Financing Mechanism Than Government Analyses Suggest" (Jan. 17, 2013).

¹⁵ Frank Sammartino, Congressional Budget Office, Testimony before the U.S. Senate Finance Committee Hearing on "Federal Support for State and Local Governments through the Tax Code" (Apr. 25, 2012).

¹⁶ George Friedlander, Citi "Muni Issuers and the Current Market Environment: Threats, Challenges and Opportunities" 10 (Mar. 30, 2012)(estimating a yield increase of as much as 75 basis points); John Hallacy & Tian Xia, Bank of America Merrill Lynch, "Munis & Derivatives Data" 1 (Feb. 13, 2012)(estimating a 40 basis point increase on issuer costs); BLX at 6 (estimating a 77 basis point increase in all-inclusive borrowing costs for large issuers and a 92 basis point increase in all-inclusive borrowing cost for smaller issuers).

¹⁷ See, for example, Moody's "U.S. Municipal Bond Defaults and Recoveries: 1970-2011" (Mar. 7, 2011)(showing that of a sample of 17,700 rated issuers, just 71 had defaulted over the 42-year period and, of those, just two were public power issuers).

¹⁸ This statement is primarily concerned with the tax policy considerations of tax reform, but a number of academics have questioned whether federal tax on state and local financing would violate constitutional intent and whether the courts would uphold such a tax.

¹⁹ BLX Group LLC, "Tax Reform Proposal Analysis: Impact on Tax-Exempt Bond Financing," prepared for American Public Power Association 6 (Jan. 28, 2013).

The actual costs would likely be far greater, as roughly 50,000 state and local issuers with median financing needs of \$7 million would be forced into a taxable market where the median issue for roughly 5,000 corporate issuers is closer to \$200 million. Likewise, flexibility unique to municipal bonds—such as the ability to ladder bond maturities to match revenues and project life and to call bonds prior to maturity to take advantage of changes in interest rates—would be lost or would come at a premium in the taxable market.

28% “Cap”

A “cap” on the tax value of the exemption for municipal bond interest is, in principle and in construction, a surtax on municipal bond interest. For example, to “cap” the tax value of municipal bond interest at 28%, a surtax of up to 11.6% is imposed. While theoretically targeted at upper-income investors, the reality is that such a tax would hurt the issuers of new tax-exempt bonds and the secondary market value of holdings for all outstanding bond-holders.²⁰

As a result, all potential investors would demand a premium on new issuances either as compensation for the loss of net earnings or to reflect the downward pressure on secondary market value caused by the new tax. An additional risk premium would be demanded to compensate for possible future tax rate increases. Recent analysis shows that a 28% “cap” would increase financing costs for a larger issuer by 77 basis points, while a smaller issuer’s costs would increase by 92 basis points.

In addition to increasing the cost of borrowing for state and local government issuers, the notion that the bonds are a “hybrid investment” - that is, depending on the tax status of the purchaser either all or some of the interest will be excluded from federal gross income - adds complexity to all debt issuances, requires more lengthy and comprehensive disclosure and increases borrowing and transaction costs.

Flat-Dollar Cap

A flat dollar cap on the amount of deductions and exclusions a taxpayer could claim would essentially amount to a repeal of the current exclusion for municipal bond interest. Under this proposal, taxpayers would be given the option to exclude from income some or all of such interest if other deductions and exclusions are not used to “fill” the cap. It is generally assumed that taxpayers would first fill the cap with non-optional expenses – such as employer-provided health care, retirement investments, education, child and dependent care, and home mortgage interest. As a result, at the dollar levels being discussed, a flat dollar cap would result in the full taxation of municipal bond interest for most if not all municipal bond holders. The cost in the secondary market to bond holders and to issuers for new issuances would likely be on par with that of a full repeal.

Replacing Municipal Bonds with Tax Credit Bonds

Generally, the tax credit bond market is an illiquid, small market that and could not replace the current municipal bond market. The tax credit bond market cannot absorb the average annual debt issuance of tax-exempt bonds, which over the last 10 years has averaged approximately \$380 billion per year.

Purchasers of taxable bonds include entities that pay no federal income tax, such as public pension funds, private pension funds and foreign investors. To attract such investors, the tax credits would need to be

²⁰ ETF Trends “Muni Bond ETFs Tumble on Tax-Break Speculation” (Dec. 14, 2013) (<http://finance.yahoo.com/news/muni-bond-etfs-tumble-tax-181300222.html>)(last visited Mar. 28, 2013).

stripped and sold to entities that pay federal income taxes. In addition to discounting the amounts paid for credits due to the complexity of stripping and selling a stream of tax credits, purchasers will discount the credits to offset the following: (i) transaction costs; (ii) tax risk associated with concerns that the credits might stop in the event the bonds do not meet the federal bond tax rules; (iii) risk that the investor may not have a federal tax liability in later years to fully utilize the credits; and (iv) default risk and related factors.

Replacing Municipal Bonds with Taxable Direct Payment Bonds

All the concerns regarding cost, access to capital, and flexibility for issuers caused by an outright repeal of the exclusion for municipal bond interest would apply to a replacement of the exclusion with a taxable direct payment bond. Further, the small issuers that dominate the tax-exempt bond market would be disproportionately affected by having to borrow in the taxable market. Recent analyses show that replacing municipal bonds with a 25 percent direct payment bond would still result in a net cost increase to a large issuer of 51 basis points and to a smaller issuer of 58 basis points.²¹ Further, there is a legitimate question among our members as to whether these direct payment bonds have been forever tarnished by the impact of sequestration. This sequestration cut was not envisioned by the drafters of BABs; it therefore calls into question whether or not more cuts would be forthcoming at some point in the future.

Improvements to Municipal Bonds

While much of Congress's recent discussion of municipal bonds has focused on how much revenue could be raised by taxing them, this Committee has begun discussing how to improve the rules surrounding municipal bonds. A thoughtful discussion of ways to modernize the tax code would be welcome.

For example, state and local governments may issue qualified private activity bonds, the interest on which is exempt from federal gross income tax. As mentioned above, qualified private activity bonds may be issued to finance a range of capital improvements to be used by private sector entities. Such improvements include airports, docks and wharfs, multi-family housing and solid waste disposal facilities, and the local furnishing of power, among others.

Unlike governmental bonds, qualified private activity bonds are subject to a wide range of restrictions and limitations, many of which apply specifically to power-related bond issuances:

- Qualified furnishing of power may only be to a city and one contiguous county or two contiguous counties;²²
- Only up to 10 percent of the output of an electric facility may be used for private use;²³ and
- Only up to \$15 million per project of private use for power-related projects.²⁴

Private activity bond rules are also used to severely limit the ability of municipal utilities to acquire existing privately-owned, power-related assets with government-purpose bonds.²⁵

²¹ BLX Group LLC, "Tax Reform Proposal Analysis: Impact on Tax-Exempt Bond Financing," prepared for American Public Power Association 6 (Jan. 28, 2013).

²² 26 USC 142(f).

²³ 26 USC 141(b)(2).

²⁴ 26 USC 141(b)(4).

A related issue is the taxation of capital contributions by public power utilities to investor-owned utilities (IOUs) to build facilities (e.g., interconnections and associated facilities, transformers, circuits, etc.) to serve the public power utility's retail demand ("load") are treated as taxable "contributions-in-aid of construction" to the IOU.²⁶ Because the IOU traditionally requires the municipal utility to "gross up" its contribution, the cost of the investment is effectively increased by as much as 35 percent.

These limitations severely limit the ability of municipal utilities to work cooperatively with investor-owned utilities to finance energy infrastructure improvements such as generation, transmission and distribution assets. Re-examining these restrictions could increase public-private partnerships in critical infrastructure investments.

Likewise, we endorse the National Governors Association's all-of-the above approach to municipal finance. For example, while direct payments bonds could not replace municipal bonds, in the case of New Clean Renewable Energy Bonds (New CREBs) and Build America Bonds, they have served as a helpful supplement to traditional municipal bond financing.

Problems with New CREBs have been the limited amount of bond volume available; the laborious process for seeking approval to issue these bonds; and the "locking out" of projects by projects for which allocations have been approved, but which have not begun. Congress has also failed to continue its investment in the policy—extending the production tax credit while failing to increase the allocation for New CREBs.

Taxable direct-payment Build America Bonds (BABs) also provided a welcome expansion of potential investors in 2009 and 2010—a time when the appetite for municipal bonds was limited. The recent experience with the cutting of payments to BABs issuers under sequestration has substantially dampened enthusiasm for BABs in the issuer community. As a result, the cost of issuing such bonds going forward would likely be higher as provisions to recall bonds in the wake of similar budget cuts would be included.

However, a taxable direct payment BAB could still make a welcome supplement to traditional municipal bonds. Reimbursement rates for proposal reinstating BABs are much lower than the 35% provided under the original BABs program. Still, if Congress were demonstrate its commitment to the program going forward, a taxable direct payment bond could be a useful supplement to traditional municipal bonds, and could reduce state and local borrowing costs overall.

²⁵ 26 USC 141(d).

²⁶ 26 USC 118(b).

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